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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE, Plaintiff and Respondent, v. SUZETTE MARIE HOWARD, Defendant and Appellant.	A111262 (Solano County Super. Ct. No. 208090)

I. INTRODUCTION

After a court trial, appellant was convicted of two counts of insurance fraud (Pen. Code, § 550, subd. (a)(1) and (b)(1)[1] and one count of attempted grand theft. (§§ 487, subd. (b) and 664.) She appeals and, citing *People v. Wende* (1979) 25 Cal.3d 436, asks this court to examine the record below and determine if there are any issues that deserve further briefing and then examination by this court. We find none and hence affirm the judgment.

II. FACTUAL AND PROCEDURAL BACKGROUND

During the summer of 2000, appellant was living in Suisun with her son and her boyfriend, Ken Ojeda. There were, at least according to the testimony adduced at trial by the defense, constant problems between appellant and Ojeda, who threatened her with knives, verbally threatened to kill her, started to strangle her on several occasions, and accused her of having an affair with another man. After trying, unsuccessfully, to break

[1] All statutory references are to the Penal Code.

up with Ojeda, appellant had to be taken to a mental health facility where she was diagnosed with anxiety disorder.

Appellant allegedly kept attempting to end her relationship with Ojeda, but he told her he would leave her only if she gave him money with which to buy a truck, and suggested she file a false insurance claim to accomplish this. Allegedly fearing Ojeda's threats, appellant complied. Appellant first secured a receipt for the purchase of kitchen appliances from an appliance store (although not the appliances themselves), and then, on July 8, 2000, called the Suisun police and reported them stolen from her garage. Later, she gave the police a note claiming additional items had been stolen as well, including jewelry, a jacket and a sterling silver set.

Appellant then informed her insurance company, Coast National Insurance, that she had been burglarized and claimed $37,000 in lost personal property. Among other things, she submitted the receipt from the appliance store and a receipt from Nordstrom's showing the 1999 purchase of a jacket for over $3,000. The insurance company adjuster, however, soon found that the appliances had never been delivered to appellant's home and the jacket had been returned to Nordstrom the preceding year, i.e., in November 1999. He also discovered that appellant had made two prior insurance claims, including one in 1995 involving the alleged theft of furniture from a garage. When he contacted appellant, she told him she had submitted the wrong receipts; she later left a message for him that she was canceling her claim because all of the items she claimed had been stolen had been recovered.

By an information filed October 23, 2003, appellant was charged with, as noted above, two counts of insurance fraud and one count of attempted grand theft. (§§ 550, subd. (a)(1) & (b)(1), 664 & 487, subd. (a).)

Although appellant originally requested a jury trial, on February 10, 2004, she waived her that right . On May 19, 2005, a court trial was held. By stipulation, the prosecution introduced the preliminary hearing transcript and an attached exhibit by way of its case-in-chief. In defense, appellant testified and then called three witnesses on her behalf (including a psychologist who testified as to appellant's mental state), after which

the court took the case under submission. On May 31, 2005, it issued its opinion finding appellant guilty on all three counts.

On August 1, 2005, a sentencing hearing was held. The court suspended imposition of any sentence on appellant, but placed her on formal probation for three years. It also ordered her to pay a restitution fine, a court security fee, and imposed but stayed a probation revocation fine (see §§ 1202.4, 1202.44 & 1465.8); it also ordered appellant to complete 200 hours of community service.

Appellant filed a timely notice of appeal on August 25, 2005.

III. DISCUSSION

Aside from the prosecution's motion to exclude witnesses made at the beginning of the court trial, the record reflects no pretrial motions by either side.

As for the trial itself, we note that no objections were interposed during the prosecutor's opening statement or closing argument. We find nothing objectionable in the prosecutor's conduct, and note that he and defense counsel were able to stipulate that the prosecution's case would (and did) consist of the preliminary hearing transcript and an attached exhibit.

At the one-day court trial, defense counsel provided effective representation, competently examining and cross-examining witnesses. These witnesses included, as noted above, appellant herself, two lay supporting witnesses, and an expert witness, a psychologist. Together, they presented a defense to the effect that appellant lacked the necessary specific intent to commit the crimes charged because she filed the false insurance claims while under duress from Ojeda. The court, however, found that the prosecution had proved beyond a reasonable doubt that appellant was guilty on all three charged counts. The court apparently accepted the prosecution's argument that appellant's testimony was not credible. Thus, in making its ruling the court noted: "I don't believe that it was the actions of the former boyfriend that caused her to act the way she acted."

Clearly, from the record before us, substantial evidence supports this decision. That evidence includes, but is not limited to, the documentary evidence submitted by the

prosecution showing the purchase of several of the items claimed to have been stolen well prior to either the report of their loss to the police or the submission of the insurance claims.

We also discern no error in appellant's sentencing. The court granted appellant three-years probation with quite normal and reasonable conditions (including, as noted, 200 hours of community service), and levied nothing more than the statutorily-mandated fees and fines.

In sum, we have thoroughly reviewed the record and find no arguable issues.

IV. DISPOSITION

The judgment is affirmed.

_____
Haerle, Acting P.J.

We concur:

_____
Lambden, J.

_____
Ruvolo, J.*

* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice prusuant to article VI, section 6 of the California Constitution.